***THE HONOURABLE MRS JUSTICE T.MEENA KUMARI**

+WRIT PETITION NO.19134 OF 1994

-

% TWENTY NINTH DAY OF JULY, TWO THOUSAND FOUR

Between:

1 Bollineni Pedayogaiah, S/o. Kondaiah,
R/o. Toorpu Choutapalem, Darsi Mandal, Prakasam Dist.
2 Bollineni Narayanamma, W/o. Govindaiah,
R/o. Toorpu Choutapalem, Darsi Mandal, Prakasam Dist.
3 Medarimetta Subbaiah, S/o. Veeraiah,
R/o. Toorpu Choutapalem, Darsi Mandal, Prakasam Dist.
4 Medam Chowda Reddy, S/o. Nagi Reddy,
R/o. Toorpu Choutapalem, Darsi Mandal, Prakasam Dist.
5 Nasam Venkateswara Reddy, S/o. Venkata Reddy,
R/o. Toorpu Choutapalem, Darsi Mandal, Prakasam Dist.
6 Bollineni Govindaiah, s/o. Yellamanda,
R/o. Toorpu Choutapalem, Darsi Mandal, Prakasam Dist.

..... PETITIONERS

AND

$1 The Joint Collector/Settlement Officer,
Ongole , Prakasam Dist.
2 The Director of Settlements, A.P., Hyderabad.
3 The Mandal Revenue Officer, Darsi, Prakasam Dist.
4 The Revenue Inspector, Darsi, Prakasam Dist.
5 Bommidi Polaiah, S/o. Lakshmaiah,
R/o. East Chotupalem (V), Darsi (M), Prakasam Dist.
6 Appikatla Govindachari, S/o. Veerabramhaiah,
R/o. East Chotupalem (V), Darsi (M), Prakasam Dist.
7 Rachapudi Balakotaiah, S/o. Ramaiah,
R/o. East Chotupalem (V), Darsi (M), Prakasam Dist.
8 Rachapudi Chinakotaiah, S/o. Yesobu,
R/o. East Chotupalem (V), Darsi (M), Prakasam Dist.
9 Rachapudi Subbaiah, S/o. Venkataiah,
R/o. East Chotupalem (V), Darsi (M), Prakasam Dist.

10 Pari Yesu, S/o. Nagaiah,
R/o. East Chotupalem (V), Darsi (M), Prakasam Dist.
11 Jammalamudi Guravaiah, S/o. John,
R/o. East Chotupalem (V), Darsi (M), Prakasam Dist.
12 Srirama Subbaiah, S/o. Issaic,
R/o. East Chotupalem (V), Darsi (M), Prakasam Dist.
13 Taluri Yesu, S/o. Nagaiah,
R/o. East Chotupalem (V), Darsi (M), Prakasam Dist.
14 Rachapudi China Balaguravaiah, S/o. Guravaiah,
R/o. East Chotupalem (V), Darsi (M), Prakasam Dist.
15 Jammalamudi Balakotaiah, s/o. Pedakotaiah,
R/o. East Chotupalem (V), Darsi (M), Prakasam Dist.

R5 to 15 are impeaded as per court order dt.14.10.99 in

W.P.M.P.1968/99.

.....RESPONDENTS

! Counsel for the petitioner: Mr.Avula Venkateswarlu

^ Counsel for the respondents 1 to 4: Govt. Pleader for Revenue

^ Counsel for the respondents 5 to 15: Mr. M.V.S.Suresh Kumar

< Gist:

>Head Note

? Cases referred

1. 1981(2) APLJ p-158

2. 1997(3) An.W.R.229(DB)

3. AIR 1965 SC-338

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY NINETH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

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WRIT PETITION NO : 19134 of 1994

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R5 to 15 are impeaded as per court order dt.14.10.99 in

W.P.M.P.1968/99.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or direction particularly in the nature of Mandamus declaring the proceedings of the Director of Settlement, A.P. Hyderabad in R.P.32/90 (A2), dt.25.3.91 and consequential action of the M.R.O. Darsi and Revenue Inspector, Darsi in directing the petitioners not to enter into the lands situated in Servey Nos. 96&171 of Toorpuchoutupalem in an extent of 1.52 &12.73 acres, as illegal, void and arbitrary.

Counsel for the Petitioner: MR.AVULA VENKATESWARLU

Counsel for the Respondents 1 to 4: GP FOR REVENUE

Counsel for the Respondents 5 to 15: MR.M.V.S.SURESH KUMAR

The Court made the following:

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ORDER:

The present writ petition has been filed seeking writ of Mandamus declaring the proceedings of the Second respondent in R.P.32/90(A2), dated 25.03.1991, and consequential action of the respondents 3 and 4, in directing the petitioners not to enter into the lands situated in Sy. Nos. 96 and 171 of Toorpuchoutupalem admeasuring Ac.1.52 cents and Ac.12.73 cents respectively, as illegal and arbitrary.

2. It is the case of the petitioners that the Additional Assistant Settlement Officer, Nellore, in his proceedings Sr.No.505/11/A/63, dated 27.02.1971, granted pattas in favour of the father of the 1st petitioner and the petitioners 2 and 3 to an extent of Ac.12.73 cents in Sy.No.171 of Toorpuchoutupalem Village under Section-11 (a) of the Estate Abolition Act. It is also their case that petitioners 4,5 and 6 have purchased Ac.3-00cents and Ac.1-00 cents respectively from the original grantees through a registered sale deed, dated 06.07.1987 and since then they have been in peaceful possession and enjoyment of the same. Further, as the then Tahsildar, Darsi, had reported some irregularities in granting the pattas, the Director of

Settlements, Hyderabad, conducted *suo-motto* enquiry and passed the impugned order remanding the case to the Settlement Officer and Joint Collector, Prakasam District, with a direction to hold 'Denova' enquiry and for disposal according to law. While so, the Revenue Inspector, Darsi, issued a notice, dated 14.09.1994, asking the petitioners to attend for an enquiry to establish their rights and possession over the lands in question. Thereupon, the petitioners attended before him and brought all the facts to his notice, but the Revenue Inspector, Darsi, caused *tomtom* in the village and then directed the petitioners not to enter into the said land. Hence, the present writ petition.

3. The 3rd respondent filed the counter-affidavit denying the allegations made by the petitioners in the writ petition.

4. The learned counsel for the petitioners vehemently argued that the observations made by the Director of Settlements, A.P., Hyderabad, in the impugned order is not based on any merits but only on the presumption that the lower Court records are not available before him. The leaned counsel further argued that the Settlement Officer has observed in his order that the Settlement Officer, Nellore, has furnished an extract of fair adangal of Sy.No.171 of Toorpuchantapalem Village and also reported that orders passed in S.R.No.505/11(a)/63, dated 27.02.1967 were implemented in the names of the father of the 1st petitioner and petitioners 2 and 3. Learned counsel has further submitted that the Director of Settlement, Hyderabad, having observed that the Settlement Officer furnished an extract of the fair adangal and reported about the implementation of the same, erred in observing that the records of the lower Court are not available with him to examine whether the respondents have any claim under Section-11(a) of the Estate Abolition Act. It is also further argued that the respondents have to invoke the power of 'Denova' enquiry within a reasonable time but in this case they have chosen to exercise such power nearly after a lapse of 24 years from the date of granting of patta in favour of the petitioners. The learned counsel

further contended that the factum of reopening of the case and conducting 'denova' enquiry by the concerned authorities has to be done within a reasonable time.

5. To support his contentions, the learned counsel for the petitioners has relied upon catena of decisions. He relied upon a decision reported in ***A.KODANDA RAO Vs. GOVERNMENT OF A.P.*** wherein it is held that

> "In our view in cases where no period of limitation is prescribed under the statute or the rules made thereunder for exercise of Revisional powers suo-motu, the question for consideration is not whether the exercise of the power is barred by limitation-for in the absence of a period of limitation prescribed under the Act, the question of bar of limitation cannot arise-it is a question of the reasonable period of limitation within which that power should be exercised where the question is one exercising that power within a reasonable time and what is reasonable period would undoubtedly be dependant upon the facts and circumstances of each case."

The learned counsel also relied upon the decisions reported in ***K.VEERRAJU Vs. MANDAL REVENUE OFFICER*** and ***ATHMANATHESWAMI DEVASTHANAM Vs. K.GOPALASWAMI*** to substantiate his contentions.

6. It is pertinent to note here that in the earlier Writ Petition No.1701 of 1990, this Court passed an order, dated 13.03.1990, to consider the reference made by the Tahsildar, Darsi, and the petitioners' application, and to dispose of the case in accordance with law after giving due notice to the persons to whom pattas were alleged to have been granted, within a period of six months. In pursuance of the said directions, the Director of Settlement, A.P., Hyderabad, has taken up the case and passed the impugned order. The petitioners have been granted patta under Section-11(a) of the Estate Abolition Act long back in the year 1967, but the denova enquiry has been conducted by the respondents in the year 1991 i.e. after a lapse of nearly 24 years. It has also been contended that the order of the High Court does not bar the petitioners to agitate their rights in accordance with

law and the power of conducting *suo motto* enquiry has to be exercised by the authorities concerned, within a reasonable time.

7. Even though the Director of Settlements has observed that the records are not available with the Mandal Revenue Officer, there is no material as such filed to support the above observation. When the matter has been referred to the Settlement Officer, it has been observed that the Settlement Officer, Nellore, has furnished extract of fair adangal of Sy.No.171, wherein the petitioners' names have been mutated. Under the above circumstances, it has to be observed that the Director of Settlement is not entitled to proceed with the suo-motto enquiry nearly after a period of 24 years. Therefore, following the catena of legal propositions laid down by this Court as well as by the Apex Court time and again, it is held that the respondents have not conducted the suo-motto enquiry within a reasonable time.

8. For the foregoing reasons and in the light of the facts and circumstances of the case, the impugned order is quashed and the writ petition is accordingly allowed. No costs.

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29.07.2004

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L.R.Copy to be marked.

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Thursday the twenty ninth day of July, Two thousand and four.

To

1 The Joint Collector/Settlement Officer,
Ongole , Prakasam Dist.
2 The Director of Settlements, A.P., Hyderabad.
3 The Mandal Revenue Officer, Darsi, Prakasam Dist.
4 The Revenue Inspector, Darsi, Prakasam Dist.
5 Two CCs to Government Pleader for Revenue, High Court

Buildings, Hyderabad (OUT)

6 8 L.R.copies.

7 The Under Secretary, Union of India, Ministry of Law, Justice and Company Affairs, New Delhi.

8 The Secretary, A.P.Advocates' Assocation, Library, High Court Buildings, Hyderabad.

9 Two CD copies.